S.B. CIVIL WRIT PETITION NO.5083/2003

Amit Rawat
VS
Jai Narain Vyas University & Ors.

DATE OF ORDER: 21.3.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. G.K.Vyas, for the petitioner.
Mr. Hemant Srimali, for the respondent.
Mr. S.N.Tiwari, Dy.GA, for the State.

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Heard learned counsel for the parties.

The petitioner claimed himself to be the resident of tribal area, as declared by the Government of Rajasthan, therefore, the petitioner is claiming that he is entitled to have consideration of his candidature for the MBBS in 45% reservation seats reserved for the candidates belonging to the tribal area. According to petitioner, the petitioner submitted his form, he cleared the examination, he was called for councilling treating the petitioner as resident of tribal area, but the petitioner was denied the admission, which according to petitioner was due to the respondents' wrong decision that the petitioner is not resident of tribal area.

The respondents submitted reply to the writ petition and placed on record the copy of the Gazette dated 12.2.1981 and one order passed by the State Government dated 8.8.2002 as Annexs.R/1 and R/2. According to respondents, the petitioner's village is not find any place in the list of villages given in both the documents Annexs.R/1 and R/2 .

According to learned counsel for the petitioner, the Gazette relied upon by the respondents is not relevant as it is not a declaration of tribal area,but it is only about the notified area. It is also submitted that Annex.R/2 is a Government order wherein it is mentioned that par t of the Girwa village is tribal area. According to learned counsel for the petitioner, none of the documents prove that petitioner's village is not falling in that part of Girwa, which has been declared to be tribal area.

In view of the disputed questions of facts, it will be just and proper to direct the State Government to examine the matter afresh of the petitioner and take a decision and pass appropriate order whether the village Umrada of Kanpur of Girwa of District Udaipur has been declared tribal area or not. In case, the State Government decides that petitioner is resident of the tribal area, the respondent no.1 and 2 shall not deny the benefit for which the petitioner may be eligible.

The writ petition of the petitioner is, therefore allowed. The Dy. Secretary, Tribal Area, who issued order dated 8.8.2002 (Annex.R/2) shall decide the matter within a period of one month from the date of receipt of the certified copy of this order. The copy of the order be supplied by the petitioner within a period of 15 days from today.

(PRAKASH TATIA), J.

c.p.goyal/-.